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May 11, 2020

The Honorable Joseph A. Dickson
United States Magistrate Judge
King Fed. Bldg. & United States Courthouse
50 Walnut St., P.O. Box 999
Newark, New Jersey 07101-0999

Re: White, et al. v. Samsung Electronics America, Inc., et al.,
Case No. 17-1775 (MCA)(JAD)
Telephone Conference on Tuesday May 12, 2020 @ 10:30am

Dear Honorable Judge Dickson:

We are in receipt of a letter from Michael R. McDonald, counsel for Defendant Samsung in the above captioned case (which was just received at 3:45 pm today), advising the Court that Defendants Samsung and Sony will be filing motions to compel arbitration.

The Defendants have waived their arbitration rights by litigating the case in this Court and delaying the raising of the arbitration clause during three years of litigation, including two rounds of briefing on motions to dismiss, and subsequent briefing on defendants' motion for reconsideration, and in the alternative, interlocutory appeal (which was denied by Judge Arleo). The Defendants now ask this Court to invoke an arbitration clause that they readily could have known existed at the time the case was initially filed or any time during the three years of litigation thereafter.

It is apparent from Defendants' actions that they are now asking this Court who ruled against them to send their case to a different tribunal to seek a better result. Defendants should not be entitled a fourth bite of the apple.

Counsel is prepared to further address the issues raised in Defendants' letter during tomorrow's conference with the Court.

Respectfully,

/s/ Mack Press

Mack Press
Counsel for Plaintiffs